

BOARD OF GAME AND INLAND FISHERIES MEETING MINUTES

**4000 WEST BROAD STREET
RICHMOND, VIRGINIA**

May 24, 2005, 1:00 p.m. (amended as requested 062305)

Present: Sherry S. Crumley, John W. Montgomery, Jr., Richard E. Railey, Jr., Will McNeely, Randy Kozuch, Charles Yates, Cecil T. Campbell, Jimmy Hazel; **Absent:** C. Marshall Davison, schedule conflict, Jack T. Shoosmith, personal illness, second congressional district vacant; **Legal counsel:** Roger Chaffe, John Byrum, **Senior Staff:** Terry Bradbery, Ray Davis, Bob Duncan, Gary Martel, Charlie Sledd, Jeff Uerz, David Whitehurst

Chairman Crumley called the meeting to order at 1:05 p.m. Guests were welcomed and Colonel Bradbery led the Pledge of Allegiance to the Flag.

1. Closed Session: At 1:08 p.m., **Mr. Hazel moved, seconded by Mr. Montgomery, passed unanimously (ayes: Crumley, Montgomery, Railey, McNeely, Kozuch, Yates, Campbell and Hazel), that the Board go into closed session pursuant to § 2.2-3711 (A) (1) of the Code of Virginia for the purpose of conducting the following personnel matters: (1) discussion and consideration of requesting and/or accepting the resignation of the Director, and (2) if such resignation is requested and accepted, discussion and consideration of the appointment of an acting director.**

I also move that the Board convene this closed meeting pursuant to § 2.2-3711 (A) (7) of the Code of Virginia for consultation with and briefing by legal counsel pertaining to actual litigation where such briefing in open meeting would adversely affect the litigating or negotiating posture of the Department, namely the case of Lee H Albright v. William L. Woodfin, Jr., et al. currently pending in the Circuit Court of Nelson County.

This closed meeting will be attended only by members of the Board. However, pursuant to § 2.2-3712 (F) of the Code, the Board requests counsel, the Secretary of Natural Resources, and the Deputy Secretary of Natural Resources to attend because it believes that their presence will reasonably aid the Board in its consideration of the topics that are the subject of this closed meeting.

In open session at 2:30 p.m., Mr. Hazel certified, seconded by Mr. Yates, passed unanimously, (ayes: Crumley, Montgomery, Railey, McNeely, Kozuch, Yates, Campbell and Hazel), that whereas the Board had convened a closed meeting on May 24, 2005 pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and whereas § 2.2-3712 (D) of the Code requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law; now, therefore, the Board of Game and Inland Fisheries hereby certifies that (i) to the best of each member's knowledge, only public business matters lawfully exempted

from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board.

Chairman Crumley called for a break at 2:30 p.m. and the meeting reconvened at 2:40 p.m.

Mr. Hazel moved, seconded by Mr. Yates, passed unanimously, (ayes: Crumley, Montgomery, Railey, McNeely, Kozuch, Yates, Campbell and Hazel), that the Board request the resignation of Director William L. Woodfin, Jr. of the Virginia Department of Game and inland Fisheries. Since Mr. Woodfin has submitted a resignation contingent upon this request being considered by the Board, this resolution shall constitute both the request for and acceptance of his resignation effective immediately and pursuant with the terms that will be reflected in the minutes of the Board meeting.

Mr. Hazel moved, seconded by Mr. Kozuch, passed unanimously, (ayes: Crumley, Montgomery, Railey, McNeely, Kozuch, Yates, Campbell and Hazel), that pursuant to its authority under §§ 29.1-103 (A) and 29.1-109 (B) of the Code of Virginia, that the Board appoint retired Colonel W. Gerald Massengill, former Superintendent of the Virginia Department of State Police, as acting director of the Department of Game and Inland Fisheries effective immediately.

Board members complemented Mr. Woodfin for his work and many accomplishments during his tenure at the Department, a few of which included the passage of House Bill 38, the Constitutional Amendment guaranteeing the right to hunt and fish, Level I, new wildlife management areas, the agency's own game warden training academy, the first statewide wildlife and birding trail and partnering with the Virginia Tourism Corporation to promote opportunities to enjoy Virginia's bountiful wildlife, and the inclusion of game wardens in the VALORS retirement system. Ms. Crumley noted for the record that Mr. Woodfin's accomplishments were achieved on a very limited budget. Further, constituents and interested citizens were requested to continue to support the Board and the Department's work.

3. Report of the Internal Auditor: Merritt Cogswell, Internal Auditor, presented his report on findings from an investigation as a result of reports to the State Employees Fraud, Waste and Abuse Hotline. He clarified for the record that any reference to the Board Chairman in the report referred to the former Board Chair, Daniel A. Hoffler. He also stated that many employees interviewed indicated that the Department of Game and Inland Fisheries has benefited from Mr. Woodfin's work. He indicated that his report contained nine general recommendations and that 24 of the 29 allegations investigated were substantiated. Two allegations were inconclusive and three were unsubstantiated. He indicated that the investigation identified a number of questionable and/or improper purchases, and the use of agency-owned property for personal use. He also substantiated claims of retaliation, attempted retaliation or intimidation against employees cooperating with the investigation or suspected of calling the hotline, and some inappropriate personnel actions were identified. He felt that problems identified could be attributed to a lack of oversight by the current and previous Board, the absence of policies and procedures, not adhering to state and/or agency policies and procedures, state travel policies and

human resource management policy and procedures. He felt that the agency can rebound from the problems identified with the Board and executive management establishing the proper tone at the top, the Board becoming more proactive regarding issues, the development of policies and procedures in the recommended areas in the report, and the agency adhering to established policies and procedures. Additionally, the Internal Auditor felt that the Board should provide more oversight over the operations of the agency. He added that internal controls over procurement, justification of purchases, and improved communication throughout the agency should be strengthened.

4. Recommendations from the Secretary of Natural Resources: The Honorable W. Tayloe Murphy, Jr., Secretary of Natural Resources, presented the Secretary's response to the audit report which was developed in cooperation with the Chief of Staff, the Deputy Secretary of Natural Resources and the Board. He noted that the report indicates specific actions that need to be taken by the Governor, the Board as authorized by statute, and actions to be taken by the Director pursuant to statutory provisions.

By accepting the resignation of the Director and appointing an acting director, the Board has completed one of the actions recommended in the report. It was also recommended that the Board develop a governance manual that will address issues identified in the Internal Auditor's report. Additionally, he suggested that the Governance Manual address issues identified by the Auditor of Public Accounts relating to all of the agencies within the Secretariat of Natural Resources for the period of July 1, 2003 through June 30, 2004. He recommended that the Governance Manual contain an outline for fiscal management of the agency, personnel management, and the relationship of the Board with the Secretary of Natural Resources and the relationship of Board members to the staff of the Department, along with a Code of Ethics and internal operating rules governing the Chairman and the conduct of the meeting. He indicated that a review of the Code shows that all Board members are equal, with the Chairman being responsible for convening a meeting.

Secretary Murphy noted that a major portion of the Internal Auditor's report focuses on actions of the Director. The Secretary's response asks the Director to deal with all of the allegations, including an investigation into the allegations of misconduct, the updating of fiscal control policies, with input from the Auditor of Public Accounts, an update of personnel policies, with input from the Department of Human Resources Management, and the development of policies dealing with the use of video facilities, conference attendance, warden participation at both public and private events, the abolishment of the executive protective unit and the establishment of an internal audit function.

He noted that neither the Governor nor the Secretary of Natural Resources has the authority to take disciplinary action against the Director or employees mentioned. The report contained a recommendation that the Governor consider offering legislation during the 2006 General Assembly session to reclassify the Board of Game and Inland Fisheries to a policy Board. Currently, the Board is a supervisory Board. Additionally, the response recommends the introduction of legislation to amend Code to establish the appointment of the Director by the Governor rather than the Board. He also recommended that Code be amended regarding

promotions within the ranks of game wardens. Secretary Murphy asked that the recommendations of the Secretary of Natural Resources be given fair consideration.

An opportunity was provided for Board members to discuss recommendations with the Internal Auditor and Secretary Murphy.

In response to a posed question, Board members were informed that the Internal Auditor's reports are addressed to the Chief of Staff, and he provides guidance to the Internal Auditor as to how reports are distributed.

For the record, Mr. Montgomery asked and was told that the report being made available does not include a response prepared by the Board Chairman. Secretary Murphy noted that an agency response had been prepared by retired director Bill Woodfin and that input was incorporated as he developed his response.

Mr. Montgomery indicated for the record that the Board concurs with the recommendation to immediately discontinue the executive protective unit that was established in response to a former Chairman's wishes.

4. Board Actions Regarding the Recommendations: Chairman Crumley indicated that the Board concurs with the Secretary's corrective action plan pertaining to the Board and the Director. However, the Board expressed serious concerns pertaining to the recommendation that the Director be appointed by the Governor, and how it might impact the future of hunting, fishing and trapping. Chairman Crumley pledged that the Board will correct the identified problems.

Mr. Montgomery read the following resolution of the Board for inclusion in the meeting minutes.

WHEREAS, the State Internal Auditor has completed his investigation of the allegations received through the State Employee Fraud, Waste and Abuse Hotline relating to the Department of Game and Inland Fisheries; and

WHEREAS, the Secretary of Natural Resources has filed with the State Internal Auditor a Response with Corrective Action Plan which has been approved by the State Internal Auditor; and

WHEREAS, the State Internal Auditor has presented to the Board of Game and Inland Fisheries the Report of the State Internal Auditor together with the Secretary's approved Response with Corrective Action Plan attached thereto; and

WHEREAS, the Secretary's Response contains recommendations separately addressed to the Governor, to the Board and to the Director;

NOW, THEREFORE, BE IT RESOLVED that the State Employee Fraud, Waste and Abuse Hotline Report of the State Internal Auditor and the Response with Corrective

Action Plan of the Secretary of Natural Resources be, and it hereby is, received by the Board of Game and Inland Fisheries; and

BE IT FURTHER RESOLVED that the actions that are recommended to be taken by the Board and the Director are hereby approved for implementation within the time limits specified in the Secretary's Response; and

BE IT FURTHER RESOLVED that the Board of Game and Inland Fisheries will follow the recommendations of the Corrective Action Plan in equal or greater measure. Signed, Sherry Smith Crumley, Chairman

Mr. Yates moved, seconded by Mr. Railey, passed unanimously (ayes: Crumley, Montgomery, Railey, McNeely, Kozuch, Yates, Campbell and Hazel) that the Board approve the Resolution for Corrective Action as read. For clarification purposes, the Board noted that its resolution did not pertain to the recommendations to the Governor (changing the designation of the Board from supervisory to policy and allowing the Governor to appoint the Director). The Board reserved the right to take corrective actions beyond those identified in the resolution, contained in the audit report or recommended by the Secretary of Natural Resources.

Chairman Crumley named the following committees to address the actions recommended:

Board Governance: Jimmy Hazel (chairman) Jack T. Shoosmith and C. Marshall Davison;

Policy Committee: Charles S. Yates (chairman), Richard E. Railey, Jr., Will McNeely,

Search Committee: John W. Montgomery, Jr., (chairman), Randy Kozuch, Jimmy Hazel, Cecil T. Campbell, Will McNeely and Charles S. Yates. Chairman Crumley will serve as an ex officio member of each committee.

Chairman Crumley encouraged all Board members to attend the public input meetings being held in their congressional districts. A listing of the meetings was included in the briefing materials provided to each Board member.

Board members agreed that additional Board meetings need to be added to the calendar to allow the time needed to complete recommended tasks. The next scheduled meeting of the Board is June 23, 2005 and monthly meetings will be scheduled thereafter. The dates, when established, will be posted on the Department's website.

With the exception of the Search Committee, all committee meetings will be posted on the website. Since the Search Committee will be dealing with personnel action, most of its meetings will occur in closed session.

Adjournment: As there was no further business, the meeting was adjourned by the Chairman at 3:30 p.m.

Respectfully submitted,

Belle Harding
Recording Secretary